

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 88 of 1985

Date of decision: 23-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAVJIBHAI HARIBHAI

Versus

IGP

Appearance:

MR NITIN M AMIN for Petitioner

SERVED for Respondent No. 1, 2, 3

ORAL JUDGEMENT

The deceased petitioner, now represented by his heirs and legal representatives, had filed this special civil application before this Court challenging the order of the respondents in the matter of disciplinary action taken against him. After holding departmental inquiry, the disciplinary authority dismissed the petitioner from service.

2. The only contention raised by the learned counsel for the petitioner is that the petitioner has expired leaving behind his widow and minor children, and as such the penalty of dismissal may be reduced to some lesser penalty, so that the heirs of the petitioner may get some benefit.

3. This Court sitting under Article 226 of the Constitution of India does not distribute charity. It is well settled law that hardship or sympathy should not be the consideration to be weighed with the court for deciding the matters, as the matters are to be decided on their own merits. It is true that the petitioner was a police constable but there was serious charge against him of knocking the door of a room, late in the night, in which three girls were sleeping. The charge levelled against the petitioner was found proved by the inquiry officer, and taking into consideration the gravity of the charge the disciplinary authority has considered it a fit case to impose the penalty of dismissal from service. The appellate authority and the revisional authority did not interfere with the order of the disciplinary authority. The petitioner, a police constable, who knocked at the door of the room in which three girls were sleeping, late in the night, cannot be allowed to continue in job. The very person who was entrusted with the duty to protect the citizens and to maintain law and order himself has taken recourse to such activities which cannot be tolerated and his conduct of his has rightly not been tolerated. Otherwise also, in the matter of quantum of what punishment given to delinquent employee for proved misconduct is exclusively in the domain of the disciplinary authority and the appellate authority. This Court, sitting under Article 226 of the Constitution of India, has very limited power of judicial review in the matter of quantum of punishment given to the delinquent employee for his proved misconduct. It is not the case where looking to the charge levelled against the

petitioner and proved against him, the punishment of dismissal can be said to be excessive or harsh.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

.....

csm